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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

**MORTGAGE ELECTRONIC  
 REGISTRATION SYSTEM, INC., as  
 nominee for GMAC Mortgage, LLC  
 formerly known as GMAC Mortgage  
 Corporation,**

**Plaintiff,**

**v.**

**STACEY REINECCIUS, ELAINE  
 DIANE STATHAKIS, EMPLOYMENT  
 DEVELOPMENT DEPARTMENT -  
 STATE OF CALIFORNIA,  
 DEPARTMENT OF TREASURY -  
 INTERNAL REVENUE SERVICE, and  
 DOES 1 through 50 , Inclusive,**

**Defendants.**

**Case No. 3:07-cv-04290-MEJ**

**UNITED STATES' ANSWER**

COMES NOW the named Defendant, Internal Revenue Service, by and through its undersigned counsel, and answers the Plaintiff's Complaint as follows:

**GENERAL ALLEGATIONS**

1. Admits the allegations contained in paragraph 1 of the Complaint.
2. Admits the allegations contained in paragraph 2 of the Complaint.
3. The Internal Revenue Service is currently without the information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Complaint.
4. The Internal Revenue Service is currently without the information or knowledge

1 sufficient to form a belief as to the truth of the allegations in paragraph 4 of the  
2 Complaint.

3 5. Admits the allegations contained in paragraph 5 of the Complaint.

4 6. The Internal Revenue Service is currently without the information or knowledge  
5 sufficient to form a belief as to the truth of the allegations in paragraph 6 of the  
6 Complaint.

7 7. The Internal Revenue Service is currently without the information or knowledge  
8 sufficient to form a belief as to the truth of the allegations in paragraph 7 of the  
9 Complaint.

10 8. The Internal Revenue Service is currently without the information or knowledge  
11 sufficient to form a belief as to the truth of the allegations in paragraph 8 of the  
12 Complaint.

13 9. The Internal Revenue Service is currently without the information or knowledge  
14 sufficient to form a belief as to the truth of the allegations in paragraph 9 of the  
15 Complaint.

16 10. The Internal Revenue Service is currently without the information or knowledge  
17 sufficient to form a belief as to the truth of the allegations in paragraph 10 of the  
18 Complaint.

19 11. The Internal Revenue Service is currently without the information or knowledge  
20 sufficient to form a belief as to the truth of the allegations in paragraph 11 of the  
21 Complaint.

22 FIRST CAUSE OF ACTION

23 **Declaratory Relief**

24 12. The Internal Revenue Service incorporates by reference its responses to paragraphs 1  
25 through 11 above.

26 13. The Internal Revenue Service is currently without the information or knowledge  
27 sufficient to form a belief as to the truth of the allegations in paragraph 13 of the  
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Complaint.

14. The Internal Revenue Service is currently without the information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Complaint.

15. The Internal Revenue Service is currently without the information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 15 of the Complaint.

## SECOND CAUSE OF ACTION

### **Equitable Subrogation**

16. The Internal Revenue Service incorporates by reference its responses to paragraphs 1 through 15 above.

17. The Internal Revenue Service is currently without the information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 17 of the Complaint.

18. The Internal Revenue Service is currently without the information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 18 of the Complaint.

19. The Internal Revenue Service is currently without the information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 19 of the Complaint.

## THIRD CAUSE OF ACTION

### **Judicial Foreclosure - Deeds of Trust**

20. The Internal Revenue Service incorporates by reference its responses to paragraphs 1 through 19 above.

21. The Internal Revenue Service is currently without the information or knowledge sufficient to form a belief as to the truth of the allegations in paragraph 21 of the Complaint.

1 22. The Internal Revenue Service is currently without the information or knowledge  
2 sufficient to form a belief as to the truth of the allegations in paragraph 22 of the  
3 Complaint.

4 23. The Internal Revenue Service is currently without the information or knowledge  
5 sufficient to form a belief as to the truth of the allegations in paragraph 23 of the  
6 Complaint.

7 24. The Internal Revenue Service is currently without the information or knowledge  
8 sufficient to form a belief as to the truth of the allegations in paragraph 24 of the  
9 Complaint.

10 **FOURTH CAUSE OF ACTION**

11 **Judicial Foreclosure - Equitable Lien**

12 25. The Internal Revenue Service incorporates by reference its responses to paragraphs 1  
13 through 24 above

14 26. The Internal Revenue Service is currently without the information or knowledge  
15 sufficient to form a belief as to the truth of the allegations in paragraph 26 of the  
16 Complaint.

17 27. The Internal Revenue Service is currently without the information or knowledge  
18 sufficient to form a belief as to the truth of the allegations in paragraph 27 of the  
19 Complaint.

20 28. The Internal Revenue Service is currently without the information or knowledge  
21 sufficient to form a belief as to the truth of the allegations in paragraph 28 of the  
22 Complaint.

23 **AFFIRMATIVE DEFENSES**

24 **FIRST AFFIRMATIVE DEFENSE**

25 The Court lacks subject matter jurisdiction over this action as it is barred by the Anti-  
26 Injunction Act and the Declaratory Judgments Act.

27 **SECOND AFFIRMATIVE DEFENSE**

28 Answer by the US,  
Case No. 3:07-cv-04290-MEJ

1 This action is due to be dismissed as Plaintiff has failed to name the proper party  
2 defendant as the United States of America. See 28 U.S.C. §2410(a). The Internal Revenue  
3 Service is not the proper party defendant.

4 WHEREFORE, the United States of America having fully answered the Plaintiff's  
5 complaint prays that this court dismiss the complaint, or, in the alternative, grant judgment in  
6 favor of the United States and against the plaintiff so that the plaintiff takes nothing hereby as  
7 against the United States, and that the court award to the United States its costs of suit herein  
8 together with such other and further relief as the court deems just and equitable in the premises.

9  
10 Respectfully submitted,

11 SCOTT SCHOOLS  
12 United States Attorney

13 Dated: 24 August 2007 By: /s/ Cynthia Stier  
14 CYNTHIA STIER  
15 Assistant U.S. Attorney  
16 Attorneys for the Defendant  
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28 Answer by the US,  
Case No. 3:07-cv-04290-MEJ